

REMARKS

Reconsideration of the application is requested. Claims 1-9 and 14-21 are now in the application. No claims have been amended. Claims 10-13 have been canceled.

35 U.S.C. §103(a) Rejection

Claims 1-6, 8, 9, 14-18, and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Malodobry (US2004/0111107) in view of Ring et al. (US 4,588,400). Claims 7, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Malodobry in view of Ring et al. further in view of Garitano et al. (US 2004/0158296). For reasons set forth below, Applicants respectfully submit that these rejections should be withdrawn.

The Rejection on page 5 states: “Malodobry’s method creates a wound and will create fluid. A person of ordinary skill in the art would apply a pad, at least briefly, to absorb the created liquid. Blood, other fluids, and the released ink would not be left to drip down a person’s body. Antiseptics and antibiotics would also be used to prevent unwanted infection.” Earlier in the Office Action the Rejection states: “The use of a pad capable of absorbing the claimed amount of debris is considered obvious to a person having ordinary skill in the art. A person having ordinary skill would be able to modify the pad to absorb the debris and material from the wound as necessary. This would simply involve including more absorbent material or less absorbent material in the pad as needed. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Ring’s pad to include the desired amount of absorption. Such a modification would ensure that the pad absorbed the fluids as required.”

This may perhaps be true, but it is irrelevant to Applicant’s invention because the actions described by the Rejection are substantially different from what happens using the pad of the invention. *The pad of Applicant’s invention does not only passively absorb liquid but also comprises means for actively drawing liquid into it.* This is a unique feature that distinguishes it from prior art pads and specifically from the pad described by Ring.

Claim 1 of Applicant's invention recites, in part, that the pad is adapted to absorb the pigments and the cellular fluids, *said pad containing one or more materials capable of causing the pigments to migrate into an outer layer of the skin* (Claim 1c); and bandaging said punctured skin with said pad, thereby *causing the pigments at said section to migrate toward the outer layer of the skin* (Claim 1d).

As pointed out by the examiner, a pad adapted to absorb the pigments and the cellular fluids features is common among most prior art pads used for dressing wounds and the like. However, the pad containing one or more materials capable of causing the pigments to migrate into an outer layer of the skin is unique to the invention, and contrary to the impression of the examiner, it is not obvious.

The reason for the pad containing one or more materials capable of causing the pigments to migrate into an outer layer of the skin is based on the recognition by the inventors of the present invention that *simply puncturing the skin in order to destroy the cells and release the pigments that were trapped inside them and the passive migration of tattoo pigment as natural healing process of the body is not enough to eradicate the tattoo*. The reason for this is the fact that, as is well known to dermatologists, the holes/pores created by the needles will be sealed up by the natural healing process in a relative short time. As a result a large percentage of the pigment fragments will not have time to be carried to the surface by the fluids released by the needles and will remain trapped under the surface leading to a blurred but clearly present pigmentation of the skin at the location of the original tattoo. This effect, which may be "obvious" now that it has been explained, was not known to Malodobry. The fact that it was unknown is "obvious" since none of the prior art methods are capable of completely removing tattoos with a single (and even multiple) treatment and all require repeated treatment of the same area in order to merely approach the desired result of complete eradication of a tattoo while replacing the tattooed area with an expanse of natural colored and textured skin.

The inventors have recognized this fact and therefore, as stated in the response to the previous Office Action, in addition to the natural absorbency of the material of which it is

composed, the pad contains an additional material which causes the “pigments at the punctured section to migrate into the outer layer of the skin”, i.e. the pad contains a hygroscopic material that draws the aqueous mixture containing the tattoo ink pigment fragments, cellular fluid, and cellular debris toward the pad to the surface of the skin, where the mixture is absorbed into the pad. Success of the treatment depends on using the active absorbing pad immediately post treatment and for a specific period of time during which the pores remain open and excess amount of body fluid and pigment has successfully migrated towards the upper layer of the skin, i.e. the Epidermis layer. This layer is replaced as a natural bodily process every 28 days (unlike the dermis or fat layers where the tattoo pigment usually resides beneath the Epidermis). In the application this additional material, which is added to the pad, is described as follows:

- “The pad must contain one or more materials, such as saline, which are suitable to cause the pigments at the punctured section to migrate into the outer layer of the skin”. [pg. 7, lines 11-13]
- The material “may be in the form of a solution, a solid material or a combination of both a solution and a solid material”. [pg. 7, lines 18-20]
- “For example, the absorbent pad consists of a sterile, normal saline or salt-based granular paste, enclosed in a textile bag measuring 10 cm x10 cm.” [Pg. 8, lines 1-3]
- “The aqueous mixture and cellular debris in the punctured area of skin are drawn into the pad.” [Pg. 8, lines 7-8]

The addition of a material to the pad in order to draw the intercellular fluid to the surface of the skin where it can be absorbed in both the (textile) material of which the pad is composed and the added material is not found in the prior art nor would the inclusion of such additional material be obvious. As stated by the examiner in the sections of the Office Action quoted above, the normal reason for applying a dressing, such as that described in Ring, is to absorb bodily fluids leaking from a wound, protect the wound and keep it clean, and to topically apply medication, antibacterial agents, etc. The addition of such material to the pad is even less obvious when one takes into account that high concentrations of salt, such as those found to be effective in the method of the invention for removing tattoos are highly irritating to the patient. It is for this reason that in lines 7-13 on page 8 of the application it is stated that the pad must be removed before drying the skin to a degree which would cause permanent damage.

In order to appreciate the advantageous results of the active absorbing pad of Applicant's invention, preclinical trials carried out on animals using an absorption bandage containing a paste comprised of 50% NaCl and 50% KY jell are summarized in the attached declaration. In the words of the doctor that supervised the trial, "we could clearly see substantial quantities of tattoo pigment on the KY and salt pads which were not noticed on any of the regular pads. In addition, working area treated using a mixture of 50%NaCl with 50% KY jell pads demonstrated significant higher efficiency compared to working area which regular pad was applied upon."

In conclusion, regardless of Applicants difference of opinion with the examiner regarding the relevance of Malodobry, Claim 1 comprises an essential feature that is neither found in nor obvious from the prior art.

Accordingly, Applicant respectfully submits that claim 1 is patentable over Malodobry '107 in view of Ring et al. '400. As claims 2-9 and 14-21 depend from claim 1, these dependent claims necessarily include all the elements of their base claim. Accordingly, Applicant respectfully submits that the dependent claims are allowable over Malodobry in view of Ring for at least the same reasons.

Unsigned Declaration

The declaration being submitted with this response is unsigned. When the signed original is received from Israel, it will be immediately submitted to the examiner. If there is any formal problem with the Declaration, the Examiner is asked to telephone the undersigned attorney to remedy the problems without unduly delaying prosecution.

Applicants: Hazut et al.
Application No.: 10/560,063
Examiner:Neal

Conclusion

In light of the foregoing remarks, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. If any questions remain regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

No additional fee is believed due. However, please charge any required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 7640-X05-045).

Respectfully submitted,

A handwritten signature consisting of two parts. The first part, "Paul", is written in a cursive script. The second part, "Fleit", is also in a cursive script and is positioned to the right of the first part, with a small "and" symbol between them.

Paul Bianco, Reg. #43,500
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